

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF
JOE TODD,
License No. 1659414,
Respondent**

A.I.D. ORDER NO. 2019- 11

ORDER

On this day, the matter of Joe Todd came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held at 10:00 a.m. on January 17, 2019 in the First Floor Hearing Room of the Arkansas Insurance Department (“Department”), pursuant to the Notice of Public Hearing dated December 14, 2018. The hearing was held before Deputy Commissioner Suzanne Tipton (“Hearing Officer”) pursuant to her appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Amanda Gibson, Associate Counsel.

FINDINGS OF FACT

1. The Insurance Commissioner has jurisdiction pursuant to the Arkansas Insurance Code, Specifically Ark. Code Ann. §§ 23-60-101, *et seq.*
2. Respondent holds a Funeral Expense License, number 1659414.
3. Respondent currently resides in Magnolia.
4. Respondent’s license lapsed March 25, 2018 even though a renewal reminder was mailed to him more than thirty (30) days prior to the renewal date.
5. On March 26, 2018, the State Board of Embalmers and Funeral Directors forwarded to

the Department, a complaint that had been filed with that Board, against Mr. Todd and Marks Funeral Home, which is owned by the Respondent.

6. After investigation by the Department, the consumer complaint was dismissed after it was determined to be unfounded.

7. Respondent participated in an investigative conference held at the Department on October 8, 2018.

8. At that time, Respondent averred under oath that he was not aware of the expiration of his Funeral Expense License.

9. The Department's investigation revealed that Respondent wrote seventeen (17) funeral Expense policies through Security Plan Life Insurance Company, after the expiration of his Funeral Expense License. Nine of those policies were written after Respondent was made aware of the expiration of his license.

10. The Respondent earned \$1,428.06 in commissions on the policies that were written after his license expired.

CONCLUSIONS OF LAW

1. The Arkansas Producer Licensing Model Act, codified at Ark. Code Ann. § 23-64-501 *et seq.*, governs Respondent's Funeral Expense License.

2. Ark. Code Ann. § 23-64-512(a) allows the Commissioner to "place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions for any one (1) or more of the following causes: ...(2) Violating any of the following that calls into question the insurance producer's fitness to hold a license: (A) A law...; (8)... demonstrating incompetence..."

3. Ark. Code Ann. § 23-64-512(e) provides that "The commissioner shall retain the

authority to enforce the provisions of and impose any penalty or remedy authorized by this subchapter and the Arkansas Insurance Code against any person who is under investigation for or is charged with a violation of this subchapter or the Arkansas Insurance Code, even if the person's license or registration has been revoked, surrendered, or has lapsed by operation of law." The Commissioner therefore has authority to take action against Respondent's Funeral Expense License even though it has lapsed. Respondent's conduct as detailed above in Findings of Fact 4 and 8 is therefore in violation of Ark. Code Ann. § 23-64-512(a).

4. Ark. Code Ann. § 23-64-512(a)(4) allows the Commissioner to sanction a producer for "improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business". Respondent's conduct as detailed above in Findings of Fact 9 and 10 is therefore in violation of Ark. Code Ann. § 23-64-512(a)(4).

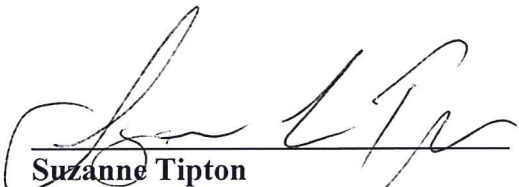
5. In order to obtain or renew a producer's license, Ark. Code Ann. § 23-64-506(e)(1) requires the producer to "be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation". Respondent's conduct as detailed above in Findings of Fact 4, 8, 9 and 10 is therefore in violation of Ark. Code Ann. § 23-64-506(e)(1).

RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That Respondent shall be sanctioned with a monetary penalty in the amount of \$1,428.06.
2. That Respondent be given until six (6) months from the date of this order to tender payment to the Department.

3. That Respondent shall be allowed to renew his Funeral Expense License provided he meets all requirements for renewal, including completion of twenty-four (24) hours of continuing education and payment of all late renewal fees.
4. That Respondent's license, if renewed, shall be on probation for the entirety of the licensing period, which is two (2) years.



Suzanne Tipton
Deputy Commissioner and Hearing
Officer

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Suzanne Tipton, Deputy Commissioner and Hearing Officer, in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that Respondent pay the monetary penalty and be allowed to renew his Funeral Expense License, as recommended by the Hearing Officer.

IT IS SO ORDERED THIS 28th DAY OF FEBRUARY, 2019.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS